

Summary of final report

[Notified: 1 December 2022]

Overview of our findings

1. The Competition and Markets Authority (**CMA**) has found that the acquisition by NEC Software Solutions UK Limited (**NECSWS**) of SSS Public Safety Limited and Secure Solutions USA (**SSS** – together the **Parties**), has resulted in, or may be expected to result in, a substantial lessening of competition (**SLC**) in Integrated Communication and Control Services software (**ICCS**), and Duties Management Systems software (**Duties**) in the UK. As a result, customers could experience higher prices or a deterioration in service.
2. NECSWS has purchased SSS from Capita plc (**Capita**) and we refer to this transaction as the **Merger** (and references related to the future combined business of NECSWS and SSS as the **Merged Entity**).
3. We also looked at one other market, (Records Management Systems software (**RMS**)), where the Parties overlap, but we have found no SLC in that market.
4. Having found that the Merger would give rise to SLCs in ICCS and Duties, we concluded that the sale of NECSWS's ICCS business; and either NECSWS's or SSS's Duties business, would be effective and proportionate remedies to address our concerns. The buyer or buyers of these businesses will need to be approved by the CMA.

Who are the businesses and what services do they provide?

5. NECSWS supplies software and associated services primarily to UK public sector bodies. NECSWS is ultimately owned by NEC Corporation, a global technology business headquartered in Japan.
6. SSS supplies software solutions and managed services primarily to the emergency and justice sectors.
7. The three markets which we looked at in detail were:
 - (a) ICCS that enables control room personnel to make and receive phone calls (including 999 and 101) and to communicate with staff over radio

networks and in the future the new emergency services network (**ESN**). This software is used by different emergency services agencies (such as police forces, fire and rescue services, and ambulance trusts) as well as certain transport customers (such as Transport for London). It is therefore extremely important for public safety.

- (b) Duties which enables the planning, scheduling and shift management of police officers.
- (c) RMS which is used by the police to record and manage case-related information for the processing of people in custody and case file management for prosecutions.

What evidence have we looked at?

- 8. In assessing this Merger, we looked at a wide range of evidence that we considered in the round to reach our findings.
- 9. We received several submissions and responses to information requests from the Parties and held hearings with each of NECSWS, SSS and Capita. We gathered information about tenders and other types of procurement processes which had been run for ICCS systems by emergency services and transport services, and for RMS and Duties systems by police forces, including who bid for these tenders and who won. We also examined the Parties' own internal documents, which show how they run their businesses and how they view their rivals in the ordinary course of business. These internal documents were also helpful in understanding the Parties' plans for the future of their businesses.
- 10. We spoke to and gathered evidence from other companies and organisations to understand better the competitive landscape, to get their views on the impact of the Merger and potential remedies to address the concerns we identified in our Provisional Findings. In particular, we received evidence from the following:
 - (a) Police forces and other emergency services and transport services, including customers of the Parties.
 - (b) Other suppliers of ICCS, RMS and Duties to the UK market.
 - (c) The Police Digital Service.
 - (d) Organisations involved during the sale of SSS.

- (e) Participants in related markets (such as Enterprise Resource Planning (ERP)) who potentially might consider entering the UK ICCS, RMS or Duties markets and/or who may be interested in purchasing these businesses.
11. We also considered evidence from the Parties and third parties received during the CMA's phase 1 investigation into the Merger.

What did this evidence tell us...

... about what would have happened had the Merger not taken place?

12. In order to determine the impact that the Merger could have on competition, we have considered what would have happened had the Merger not taken place. This is known as the counterfactual.
13. The Parties told us Capita had underinvested in SSS in recent years which would affect SSS's ability to compete effectively and that, absent a sale to NECSWS, it is unlikely that Capita would have been able to sell the business, [X]. We were told that Capita was not investing in the business and in the new technology that would be required to compete and had moved it into a division with other companies to be sold, which reduced the effectiveness of SSS as a competitor in the market.
14. In light of this, we considered whether it was most likely that SSS would continue to be operated as a going concern with sufficient investment to remain competitive, or whether SSS would have received no further investment or significant underinvestment, such that it would have become significantly weaker.
15. We looked at the financial position of SSS and the incentives to invest in its products. We found that SSS is a profitable business and there was a rationale for further investment, taking into account the financial health of the business, the size of its customer base and its position in the market. While there is limited evidence available, on balance, we consider that, either under the ownership of Capita or having been sold to an alternative buyer, the most likely scenario is that SSS would have remained a going concern and be invested into a degree that would have allowed it to continue to compete.
16. We therefore conclude that if the Merger had not happened, the most likely counterfactual is that SSS would have continued to operate and compete in

the relevant markets (either under the ownership of Capita or another purchaser).

... about the effects of the Merger?

17. We have looked at whether the Merger would lead to a significant reduction in competition between the Parties by removing an important competitor and, in doing so, whether the Merged Entity would worsen its offering (such as its price or service quality) compared to the situation if the Merger did not take place.
18. We assessed competition in each of the three markets where SSS and NECSWS overlap, and also how these markets may change in the future, particularly with the expected transition to cloud-based software.

ICCS

19. We looked at the supply of ICCS to emergency services (police forces, ambulance and fire and rescue services) and transport customers in the UK. The market for ICCS is concentrated with six suppliers competing in it. The Parties are two of the three largest ICCS suppliers and are close competitors. Where tender opportunities have arisen in the last few years, typically only a small number of competitors have bid for each one, and our analysis indicates that the Parties bid frequently and are competitive constraints on each other. They also refer to each other in recent internal documents as key competitors and customers frequently mention the Parties as being competitors in this market.
20. We consider the evidence overall shows that the Parties are currently close competitors in a concentrated market and this constraint would be lost as a result of the Merger.
21. We then assessed whether there are any expected developments in the market which might materially change the strength of the competitive constraint the Parties place on each other, and that other suppliers place on the Parties.
22. Many of the opportunities for the supply of ICCS in the next few years are likely to involve consideration of whether the software can operate in the cloud. The evidence suggests that some forthcoming tenders will require a public cloud solution. Where these require immediate public cloud deployment, [X]. However, not all of these will require a public cloud solution to be implemented immediately – instead, in some cases a credible roadmap to

public cloud or a privately hosted solution will be sufficient and, in certain cases, an on-premise solution will meet the customer's requirements. This is likely to be enough for the Parties to continue to compete for some opportunities such that they would be a competitive constraint on each other, particularly where they already supply the customer. For those customers who do not yet wish to move to cloud, the Parties will be strong competitors. The Parties will also be well-placed to compete for direct awards and extensions.

23. We consider that NECSWS will be a strong competitor in the market going forward, given its investment plans and that it is in the process of developing its ICCS product. Bearing in mind SSS's large existing customer base, there is also a good case for likely investment in SSS's ICCS product which will make it a more effective competitor in the future, but it will be able to continue to compete for some opportunities in the meantime.
24. With regards to other suppliers, Motorola is well positioned in the market and will remain a strong constraint in the future. Each of Frequentis, Saab and Systel also provide some constraint, but we found that they will either face capacity constraints and/or focus on particular tenders and intend to bid for a limited number of available opportunities. Given these limitations, we do not consider there are sufficient remaining competitive constraints to counteract the loss of competition resulting from the Merger.
25. Taking all these factors in the round, we therefore conclude that the Merger has resulted, or may be expected to result, in an SLC in the supply of ICCS in the UK.

Duties

26. The Parties overlap in the supply of Duties to police forces in the UK. There are only four main suppliers operating in this market, with SSS and Crown having most customers and NECSWS and Totalmobile having fewer customers.
27. There have been very few opportunities to win new customers in the Duties market over the last five years and in particular very few tenders. Although the Parties have not directly competed against each other in any Duties tenders recently, they have been indirect constraints on each other. Furthermore, given the small number of current suppliers, we consider the Parties are likely to compete directly and indirectly in future.
28. We looked at the prospects for each of the Parties' products in future and whether their constraint on each other, and the constraint from other

suppliers, may change. [REDACTED]. [REDACTED] NECSWS's current position in the market, its expected profitability over the next few years and ongoing contracts, we have not seen sufficient evidence to consider it likely that [REDACTED]. As such, we consider that NECSWS's Duties product is likely to continue in the market serving its current customers, to be available as an option for new customers, and therefore to remain a constraint on SSS in the next few years.

29. SSS currently has a strong position in the Duties market, and we consider it is likely to remain a strong competitor in the market in future and will remain a constraint on NECSWS.
30. With regards to other suppliers, we consider that Crown is well positioned to remain a strong constraint and Totalmobile will also provide a constraint. However we do not consider there are sufficient remaining constraints in the market to counteract the loss of competition resulting from the Merger.
31. We have therefore found that the Merger has resulted, or may be expected to result, in an SLC in the supply of Duties in the UK.

RMS

32. The Parties also overlap in the supply of RMS to police forces in the UK. There are very few companies supplying RMS to police forces in the UK, with NECSWS and Niche having the majority of customers and SSS having fewer customers. There have been very few tender opportunities in this market in the last five years, but the Parties have directly competed against each other at times.
33. However, SSS currently has a relatively weak position as a supplier in the RMS market [REDACTED]. As such, we consider that SSS's RMS products are unlikely to be in a position to compete strongly for future opportunities, and therefore would not be a constraint on NECSWS in the future. We consider that competition against NECSWS is more likely to come from other suppliers (in particular Niche, which would remain a strong constraint), and not SSS. We therefore conclude that the Merger has not resulted, or may not be expected to result, in an SLC in the supply of RMS in the UK.

... about any countervailing factors?

34. We considered whether there are any actions which customers and/or potential entrants could take to mitigate the SLCs we found in the ICCS and Duties markets in the UK.

35. We looked at whether suppliers in adjacent UK markets (for example telecommunications) are likely to enter the ICCS market in the near future, but consider this is unlikely given this would require developing or modernising an ICCS product and the importance we understand that customers place on a suppliers' track-record and reputation. Further we have received no evidence of suppliers without an ICCS product planning to enter the ICCS market.
36. We also looked at whether international ICCS suppliers not currently in the UK market would be likely to enter as a result of the Merger. While we note that several non-UK suppliers had entered the market in the recent past (eg Motorola, Frequentis, Saab and Systel), other than Frequentis none have achieved more than 5% share in the market.
37. We considered the barriers to entering the market for international suppliers, including the risk averse attitude of customers (given the critical nature of ICCS systems), leading to a reluctance to select a supplier not already active in the UK. We also took into account the technological barriers that an international supplier seeking to enter the UK market would have to overcome. We have concluded that barriers are high. Further we received no evidence that international suppliers intend to enter the UK in the near future in response to the Merger.
38. In relation to the Duties market, we also found that there are significant barriers to entry that will reduce the ability for new competitors to enter.
39. We looked at the likelihood of entry and expansion in the Duties market from either international suppliers or those in adjacent or related markets (such as Duties supply to non-emergency services customers or entry by ERP suppliers). The evidence we have seen suggests that the incentives to enter the UK Duties market may be weak, and we have not seen any evidence that any third party from outside the UK or from a related market has any intention to enter the market for supply of Duties in the UK.
40. Our conclusion is therefore that entry or expansion, as a result of the Merger, would not be timely, likely and sufficient in order to prevent an SLC arising in the ICCS or Duties markets.
41. We also considered whether efficiencies arising from the Merger constitute a countervailing factor. We examined the efficiencies put forward by the Parties and found that these do not meet the criteria for efficiencies to constitute a countervailing factor.

What have we concluded?

42. For the reasons above, we conclude that the Merger has resulted, or may be expected to result, in an SLC in the supply of ICCS and an SLC in the supply of Duties in the UK. We have also concluded that the Merger would not result in an SLC in the supply of RMS in the UK.

How will we address the competition concerns we have found?

43. Where we conclude that a merger has resulted in, or may be expected to result in, an SLC, we are required to decide what, if any, action should be taken to remedy, mitigate or address that SLC, or any adverse effect resulting from the SLC.
44. In assessing possible remedies, we have sought to identify remedies that will be effective in addressing the SLCs we found and then selected the most proportionate remedy that we consider to be effective.
45. In this case, we have decided that the following would be effective and proportionate remedies:
- (a) sale of the NECSWS ICCS business composed of the divestiture of NECSWS's APD business (including Cortex), CallTouch and its Stream products; and
 - (b) sale of either NECSWS's CARM or SSS's Origin business (ie if NECSWS fail to sell one of these businesses then they must sell the other).
46. We concluded that NECSWS could divest these businesses either to different purchasers or sell them together to the same purchaser. The sale process will be led by NECSWS but the CMA will oversee the process and approve the purchaser(s). This will ensure the purchaser(s) is suitable, taking into account factors such as its capability to compete and commitment to maintaining the divestiture as a viable and active competitor.

What happens next?

47. The CMA will now take steps to implement the remedies described above. In line with guidance, the CMA will implement its remedy decision within 12 weeks of publication of the final report, which can be extended once by

up to six weeks if needed. After this, the businesses will be required to be sold within a certain period of time.